

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wainwright et al.

Examiner: Drew E. Becker

Serial No: 09/936,242

Group Art Unit: 1761

Filing Date: February 1, 2002

Docket: 294-107 PCT/US/RCE III

For: AMYLOPECTIN POTATO FLAKES OR
GRANULES AND THEIR USE IN SNACK
FOODS

Dated: October 31, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.132

I, Peter M. Bruinenberg, state the following:

1. I hold a PhD degree in Microbiology from the Delft University of Technology in Delft, The Netherlands.

2. Since 1985, I have been working at the international co-operative of AVEBE UA in Foxhol, The Netherlands, the world's largest producer of potato starch derivatives. I have been a Manager of R&D AVEBE Agro since August 2006. Prior to my current position, I was a Manager of R&D of the starch production unit responsible for the development of potato varieties with new starch functionalities.

3. Since the discovery of the so-called amylose free (amf) mutation in 1986, I was involved as a researcher for AVEBE in the development of the so-called amylose free varieties. I am the author and coauthor of Wageningen University publications entitled "Comparison between amylose-free and amylose containing potato starches," *Starch (Stärke)*, 49(11):438-443 and "Starch from genetically engineered crop," *Chemistry and Industry (London)* 21, 881-884, Society of Chemical Industry, 1995, respectively.

4. The development of potato varieties with new starch functionalities (e.g., amylopectin potatoes) is performed at the breeding station of AVERIS Seeds BV, a fully owned subsidiary of AVEBE UA. The breeding of the amf mutation started in 1986.

5. The amylopectin varieties with the amf mutation have never been commercially available. They are only for captive use for starch production by AVEBE UA. The isolated amylopectin starch is marketed under the brand name Eliane.

6. AVEBE and other companies such as Amylogene have also developed genetically engineered amylopectin potatoes. None of these genetically engineered amylopectin potato varieties has obtained market approval either in the European Union or the United States as of yet. With the absence of a deregulation permit, any marketing, trade and/or sales is illegal.

7. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true. Further that these statements were made with the knowledge that willfully false statements, and the like, so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willfully false statements may jeopardize the validity of the application of any patent issued thereon.



Peter M. Bruinenberg